

**IN THE UNITED STATES DISTRICT COURT  
FOR THE SOUTHERN DISTRICT OF GEORGIA  
SAVANNAH DIVISION**

**TRACEY DONALDSON,**  
individually, and on behalf of  
her daughter, **MICHELLE TEBOLT,**  
a minor,

Plaintiff,

v.

**URGENT CARE 24/7, LLC, and**  
**JERRY K. WILLIAMS, M.D.**

Defendants.

CIVIL ACTION NO. **4:13-CV-00184**

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**PLAINTIFFS' SECOND AMENDED PETITION FOR SETTLEMENT**

COMES NOW Tracey Donaldson, individually and on behalf of her daughter, Michelle Tebolt, a minor, and by and through undersigned counsel, files this Petition for Settlement, pursuant to LR SD Ga 17.1, showing as follows:

1.

This case is settled and the petition to finalize was filed on December 17, 2013.

2.

The Court declined the Motion and directed the Complaint be Amended and it was amended on January 28, 2014.

3.

Exhibit A is the Courts Order and the Amended Complaint that shows admitted jurisdiction.

4.

On August 27, 2012, Michelle Tebolt appeared at Defendants' Urgent Care 24/7 located at 144 Lincoln Street in Savannah, Georgia, with fever, sinus congestion, nausea, and vomiting. *See* Medical Records at Exhibit B.

5.

Defendants' Physician Assistant, Michael Grabowski, after consulting with the Defendant Jerry K. Williams, M.D., owner of Defendant Urgent Care 24/7, treated Ms. Tebolt with an injection, into her upper left arm, containing 80 mg of Kenalog®, a synthetic glucocorticoid corticosteroid used to treat, *inter alia*, respiratory and allergic disorders.

6.

Shortly after the injection, Ms. Tebolt suffered pain and scarring in her upper right arm, and a dissolution of the subcutaneous fat under the injection site.

7.

On July 30, 2013, the present suit was filed alleging that Defendants' conduct fell below the standard of care in the following manner:

- (a) Defendants failed to observe the contraindication for the injection of Kenalog® into muscles other than the gluteal muscle;
- (b) The Defendants failed to observe the proper dosage for Kenalog®; and
- (c) On information and belief, the Defendants failed to ensure that the proper needle length of 1.5 inches was utilized.

8.

The affidavit of Dr. Vincent P. Beltrani, Ms. Tebolt's family care physician, is attached hereto as Exhibit C, in support of the above-referenced allegations.

9.

As a result of Defendants' alleged negligence, Ms. Tebolt will have to undergo cosmetic surgery to repair the scar tissue in her upper left arm. A true and correct copy of a picture of Ms. Tebolt's arm as of May 2013 is attached hereto as Exhibit D.

10.

A statement regarding the costs of this surgery, and prognosis, prepared for Dr. Celestino Sepulveda's signature, is attached hereto as Exhibit E. However, Dr. Sepulveda has asked for \$400.00 before he will sign any statement. See Exhibit F. In order to obtain the highest possible recovery for our client, we have foregone this expense pending an Order to obtain a notarized signature from Dr. Sepulveda.

11.

After reviewing the above-referenced evidence, and conferring with Defendants' counsel, the parties have reached an agreement to settle all claims for \$35,000.00. Pursuant to the agreement between Ms. Donaldson and undersigned counsel, the proposed distribution of the settlement proceeds is as follows:

Total Settlement Amount	\$35,000.00
<i>Less:</i>	
Attorneys' Fees (35%)	\$12,250.00
Expenses	\$592.20
<hr/>	
Amount due to Plaintiff:	\$22,157.80

12.

A true and correct copy of the expenses incurred to date by undersigned counsel is attached hereto as Exhibit G.

13.

A true and correct copy of the existing fee contract with undersigned counsel, is attached hereto as Exhibit H.

14.

An affidavit of undersigned counsel regarding the above-referenced matters is attached hereto as Exhibit I.

WHEREFORE, premises considered, Plaintiff prays this Honorable Court will GRANT her amended petition for settlement, on behalf of herself and her minor daughter, pursuant to the terms outlined herein.

Respectfully submitted, this 2<sup>nd</sup> day of April, 2014.

/s/ Mark A. Tate  
Mark A. Tate  
Georgia Bar No. 698820

Tate Law Group, LLC  
2 East Bryan St., Suite 600  
Savannah, Georgia 31401  
Telephone: (912) 234-3030  
Facsimile: (912) 234-9700

*Counsel for Plaintiff*

**CERTIFICATE OF SERVICE**

The undersigned hereby certifies that on the forgoing was filed electronically. Notice of this filing will be sent by operation of the Court's electronic filing system. The parties may access this filing thorough the Court's ECF system.

This 2<sup>nd</sup> day of April, 2014.

/s/ Mark A. Tate

Mark A. Tate

Georgia Bar No. 698820

Tate Law Group, LLC  
2 East Bryan St., Suite 600  
Savannah, Georgia 31401  
Telephone: (912) 234-3030  
Facsimile: (912) 234-9700

*Counsel for Plaintiff*

# PLAINTIFF'S EXHIBIT "A"

Civil Action No.: 4:13-CV-00184 - April 2, 2014



3. Defendant Jerry K. Williams, M.D. is the sole owner and member of Defendant Urgent Care 24/7 of Historic Savannah, LLC, and may be served at his place of business, located at 144 Lincoln Street, Savannah, Georgia 31401.

4. Venue and jurisdiction are proper in this Court.

**FACTUAL ALLEGATIONS**

5. In August, 2012, while on a vacation with her family in Savannah, Georgia, Plaintiff Michelle Tebolt began to experience coughing, sinus congestion, fever, nausea, and vomiting.

6. On August 27, 2012, Plaintiff Tracey Donaldson took her daughter, Plaintiff Michelle Tebolt to Urgent Care 24/7 of Historic Savannah, located at 144 Lincoln Street, Savannah, Georgia 31401.

7. Plaintiff Michelle Tebolt was seen by a Physician's Assistant at Defendants' location in downtown Savannah. Upon information and belief, this Physician Assistant was an agent and employee of Defendant Urgent Care 24/7 of Historic Savannah, LLC, and was working under the direct supervision of Defendant Jerry K. Williams, M.D., in carrying out his duties as a healthcare provider.

8. According to the medical records, the Physician Assistant consulted with Defendant Jerry K. Williams M.D. concerning the treatment for Plaintiff Michelle Tebolt.

9. The Physician Assistant injected Plaintiff Michelle Tebolt in upper left arm with 80 mg of Kenalog®, a synthetic glucocorticoid corticosteroid.



10. Kenalog® is indicated for intramuscular use only, and unless a deep intramuscular injection is given, local atrophy is likely to occur. (*See Affidavit of treating physician Vincent P. Beltrani, M.D., attached hereto as Exhibit "A," and incorporated as if fully restated herein.*) Further, injection of Kenalog® is contraindicated for injection into the deltoid muscle, and instead is indicated for injection into the gluteal muscle using at least a 1.5 inch needle. *Id.* Finally, dosage is weight dependent, and the 80 mg dose administered to Ms. Tebolt was excessive. *Id.*

11. The Physician Assistant who administered the injection, under the supervision of Defendant Jerry K. Williams, M.D., did not inject the Kenalog® into Plaintiff Michelle Tebolt's muscle, did not inject the proper muscle, did not use the proper needle length, and used too high a dosage for Ms. Tebolt's weight. . (*See Affidavit of treating physician Vincent P. Beltrani, M.D., attached hereto as Exhibit "A," and incorporated as if fully restated herein.*)

12. As a result, the skin and subcutaneous fat in the immediate area of the injection on Plaintiff Michelle Tebolt's upper left arm began to atrophy, causing her to develop a visibly red, disfiguring permanent scar and indentation several inches long which has progressed to five inches in length and one and one-quarter inch in width.

13. In order to remove the scar, Plaintiff Michelle Tebolt will require cosmetic surgery, and ongoing medical treatment, and is likely to endure future pain and suffering.

**CAUSES OF ACTION**

**COUNT I**  
**MEDICAL MALPRACTICE**

14. Defendants Jerry K. Williams M.D. and his Physician Assistant were, at all times relevant to this Complaint, required to exercise a reasonable degree of medical care and skill in their evaluation and treatment of Plaintiff Michelle Tebolt.

15. Defendants Jerry K. Williams M.D. and his Physician Assistant violated the standard of care required by treating physicians and Physician Assistants engaged in the evaluation and treatment of patients.

16. Specifically, Defendants Jerry K. Williams M.D. and his Physician Assistant negligently administered the drug Kenalog® by failing to inject the drug entirely into the muscle tissue of Plaintiff Michelle Tebolt.

17. As a direct and proximate result of Defendants' negligence, Plaintiffs have suffered and will continue to suffer permanent and irreversible injury, pain and suffering, pecuniary and economic losses.

**COUNT II**  
**RESPONDEAT SUPERIOR**

18. Upon information and belief, Defendant Jerry K. Williams, M.D., and his Physician Assistant were agents and employees of Defendant Urgent Care 24/7 of Historic Savannah, LLC, and were acting within the course and scope of their employment with same. At all times relevant hereto, Defendant Urgent Care 24/7 of Historic Savannah, LLC was acting by and through its employees and / or agents Defendant Jerry K. Williams, M.D. and his Physician

Assistant. Therefore, Defendant Urgent Care 24/7 of Historic Savannah, LLC is responsible for all acts and omissions alleged herein against Defendant Jerry K. Williams, M.D. and his Physician Assistant, under the doctrine of *respondeat superior*.

19. The negligence of the Defendants was the direct and proximate cause of the harm caused to Plaintiffs, including physical injury, pain and suffering, and medical expenses.

**PRAYER FOR RELIEF**

WHEREFORE, Plaintiffs pray as follows:

- (a) For a trial by a jury of twelve (12) persons;
- (b) That summons and process issue and be served upon Defendants;
- (c) For recovery of all past and future medical expenses incurred and mental and physical pain and suffering caused by Defendants' negligence; and
- (d) For such other and further relief as the Court deems just and proper.

Respectfully submitted this 28th day of January, 2014.

TATE LAW GROUP, LLC

/s/ Mark A. Tate  
MARK A. TATE  
Georgia Bar No. 698820  
marktate@tatelawgroup.com  
SHERRI N. WATTS  
Georgia Bar No. 176858  
swatts@tatelawgroup.com

2 East Bryan St., Ste. 600  
Savannah, Georgia, 31401  
(912) 234-3030

*Attorneys for Plaintiffs*

**CERTIFICATE OF SERVICE**

The undersigned hereby certifies that on this 28<sup>th</sup> day of January, 2014, the forgoing Amended Complaint was filed electronically. Notice of this filing will be sent by operation of the Court's electronic filing system. The parties may access this filing thorough the Court's ECF system.

This 28th day of January, 2014.

TATE LAW GROUP, LLC

/s/ Mark A. Tate

MARK A. TATE

Georgia Bar No. 698820

marktate@tatelawgroup.com

SHERRI N. WATTS

Georgia Bar No. 176858

swatts@tatelawgroup.com

2 East Bryan St., Ste. 600

Savannah, Georgia, 31401

(912) 234-3030

*Attorneys for Plaintiffs*

FILED  
U.S. DISTRICT COURT  
SAVANNAH DIV.

IN THE UNITED STATES DISTRICT COURT FOR  
THE SOUTHERN DISTRICT OF GEORGIA  
SAVANNAH DIVISION

CLERK  
SO. DIST. OF GA.

TRACEY DONALDSON, individually )  
and on behalf of her daughter, )  
MICHELLE TEBOLT, a minor, )

Plaintiffs, )

v. )

URGENT CARE 24/7, LLC; and JERRY )  
K. WILLIAMS, M.D.; )

Defendants. )

CASE NO. CV413-184

O R D E R

On December 17, 2013, Plaintiffs filed a Motion for Settlement. (Doc. 15.) However, before the Court rules on this motion, it must determine whether it has jurisdiction over all the parties. Plaintiffs' complaint, which seeks relief stemming from alleged medical malpractice on the part of Defendant Jerry K. Williams ("Williams") and his employer, Defendant Urgent Care 24/7, LLC ("Urgent Care"), attempts to invoke this Court's diversity jurisdiction. (Doc. 1 ¶¶ 2-4.) However, the jurisdictional allegations contained in the complaint are insufficient to establish complete diversity between the parties.

The party invoking this Court's diversity jurisdiction bears the burden of adequately pleading complete diversity between the parties. See 28 U.S.C. § 1332; Ray v. Bird &

Son & Asset Realization Co., 519 F.2d 1081, 1082 (5th Cir. 1975)<sup>1</sup> ("The burden of pleading diversity of citizenship is upon the party invoking federal jurisdiction, and if jurisdiction is properly challenged, that party also bears the burden of proof."). For the purposes of diversity jurisdiction, a limited liability company ("LLC") is a citizen of every state in which any of its members are citizens. Rolling Greens MHP, L.P. v. Comcast SCH Holdings L.L.C., 374 F.3d 1020, 1021-22 (11th Cir. 2004). The Eleventh Circuit Court of Appeals has been explicit in addressing the proper method to allege sufficiently the citizenship of an LLC: "a party must list the citizenships of all the members of the limited liability company." Id. at 1022.

In this case, the complaint does not include a list of the individual members, along with their citizenship, of Defendant Urgent Care. Rather, the complaint simply states that Defendant Urgent Care is a Georgia limited liability company and may be served via its registered agent, Defendant Williams, in Savannah, Georgia. (Doc. 1 ¶ 2.)


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<sup>1</sup> In Bonner v. City of Prichard, 661 F.2d 1206, 1209 (11th Cir. 1981) (en banc), the Eleventh Circuit adopted as

The complaint relies on these allegations to advance the general conclusion that jurisdiction is proper in this Court pursuant to 28 U.S.C. § 1332. (Id. ¶ 4.) Such general allegations, however, are insufficient for Plaintiffs to carry their burden of establishing complete diversity between the parties. See Ray, 519 F.2d at 1082.

Accordingly, the Court DEFERS ruling on the Motion for Settlement until diversity jurisdiction is established. Plaintiffs are DIRECTED to file an amended complaint within fourteen days from the date of this order. The amended complaint should properly include the citizenship of each party to this case, specifically the names and citizenships of each member of Defendant Urgent Care.

SO ORDERED this 27<sup>th</sup> day of January 2014.

  
WILLIAM T. MOORE, JR.  
UNITED STATES DISTRICT COURT  
SOUTHERN DISTRICT OF GEORGIA

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binding precedent all decisions of the former Fifth Circuit handed down prior to October 1, 1981.

# PLAINTIFF'S EXHIBIT "B"

Civil Action No.: 4:13-CV-00184 - April 2, 2014



# URGENT CARE OF HISTORIC SAVANNAH

144 Lincoln Street, Savannah, Georgia 31401

912.234.3714 office, 912.234.3771 fax

Tax ID # 45-0862124

NPI # Circle one: Dr. Williams

1710086749

## RECEIPT

Patient Name: Michelle Tebolt

Date: 8-27-12

### Office Visit

99201	\$ 75.00
99202	\$ 100.00
99203	\$ 150.00
99204	\$ 200.00
99205	\$ 250.00

99341  
99342  
99343  
99344  
99345

\$ 60.00
\$ 85.00
\$ 150.00
\$ 200.00
\$ 250.00

### F/U Est. Pt.

99211	\$ 50.00
99212	\$ 75.00
99213	\$ 100.00
99214	\$ 125.00
99215	\$ 150.00

Each Appointment is 30 minute allotted time, each additional 15 min. block is \$50. (CPT99354)(CPT99355)  
Each additional RX after the initial one is an additional \$25 per Rx

### Injections

Benadryl 50 mg	J1200
Kenalog 80mg	J3301
Phenargan 25mg	J2550
Toradol 60mg	J1885
Lasix 10mg	J1940
Rocaphin 500mg	J0696
Rocaphin 1gr.	J0696
Vit. B-12	J3420
Tetanus D	90714
Urine Dip	81003
Wound Culture	87070

\$35/50mg	Zantac
\$ 75.00	Ringers Lac
\$ 40.00	NS
\$ 75.00	5%Dextrose
\$ 35.00	Xopenex 1.25
\$ 45.00	Rapid Strep
\$ 50.00	Zofren 2mg/ml
\$ 35.00	hCG
\$ 100.00	Influenza AB
\$25.00	Monospot
\$ 81.00	

J2780

J7120

J7030

J7042 X2

J7618

87880QW

J2405

81025

87884 x2 (Mod 59)

8630QW

\$75/50mg
\$ 25.00
\$ 25.00
\$ 25.00
\$25/vial
\$ 30.00
\$25/ml
\$ 25.00
\$ 50.00
\$ 35.00

800-80 NDC 8828-0701-30  
SABONATE 500 mg  
30 CAPSULES  
LOT # F2280 EXP. 07-13  
NPI 87884-0713-04 X2 8788007

#2176

### Procedures

cpt 96365	IV therapy 1 hr	
cpt 96366	each add. Hr	
cpt 10060	Abscess Drainage	
cpt 12001	with packing	10060
cpt 12031	Laceration repair	Simple
cpt 13100		Intermed.
cpt 69210		Complex
cpt 10120	Cerumen Removal	
cpt 94760	Incision & Rem. of FB	
cpt 20552/53	Pulse Ox.	
cpt 36556	Trigger pt/Tendon Sheath	
cpt 94610	IV Access	
cpt 97597	Nebulizer Treatment	
cpt 94010	Simple Debridment	
	Spirometry	

### Supplies

Sutures Removal Tray	\$15	Staples kit	\$25	Angio Cath(A4649)	\$5
Suture tray(A4550)	\$50	IV set A-4221	\$50	Dressing Kit(A6257)	\$15
Air cast	\$60	Ace bandage	\$3	Crutches	\$56

Weekend &  
Holiday  
After Hours Charge  
(99050)

Dx. Code URT 465.9

TOTAL

\$296.00

8 Date: Aug 27, 2012 12:01 PM  
ATATE 30 x 100 MG CAP  
6-0101-30 Manu NDC:57664-0133-88  
1 tablet by mouth 4 times a day

E TEBOLT DOB:3/28/1997 (15 year old)

JH GA 31401

J, JERRY MD  
1231  
1006423

8/27/12 12:01 PM MICHELLE TEBOLT 3/28/1997



UHPQPHAM8Z

x:100498 8/27/2012  
1ke 1 tablet by mouth 4 times a day  
WILLIAMS, JERRY MD  
MICHELLE TEBOLT DOB:3/28/1997  
OC 66336-0101-30 Lot:F22262 7/31/2013

Rx: 100 98 66336-0101-30 8/27/12 12:01 PM  
BENZO ATATE 30 x 100 MG CAP Lot:F22262-7/31/2013  
MICHELLE TEBOLT DOB:3/28/1997  
Do you require additional counseling for this medication?  
YES / NO  
Signature:



8/27/12 12:01 PM MICHELLE TEBOLT 3/28/1997  
JH GA 31401  
J, JERRY MD  
1231  
1006423

URGENT CARE of HISTORIC SAVANNAH

Date 8/27/12

Start Time 11:15 AM End Time \_\_\_\_\_

Patient Name: Michelle Tebolt

Mailing Address: 24 Birch Drive

City: Pleasant Valley State: NY Zip: 12569

Email Address: michelle.tebolt@earthlink.net

Date of Birth: 3/28/77 15/10 Social Security # ?

Home Phone: 845 625-1184

Cell Phone: 845-464-3177

If visiting Phone Number you can be reached: ↗

Reason for Visit: Sick - cold-flu like symptoms; ↑ Nausea temp, coughing

Past Medical History: Seasonal asthma Fever 100.7 C & 101.5 F x 2 days  
*None out of since Saturday*

Past Surgical Procedures: None

Social History: Smoking or drinking alcohol

Family History: Grandparents & Diabetes

Review of Systems: \_\_\_\_\_

Tetanus up to Date Yes ☒ No ☐

Known Allergies (Food, Latex, Drugs): Minocycline - hives

Vitals: W 130 # 5'5" H 16 R 103 P 92/65 B/P 92/65 O 2 sat 98% Temp 98.7 LMP 8-15-12  
*currently*

MEDS: Albuterol inhaler, Zyrtec prn

Payment is required at the time of services. We accept only Cash or Credit Cards

12/1/12 Michelle Tebolt - left message to mother to call office back regarding of this being a true. H. Home

S: 15y/o WF c/o complaint of sinus congestion & cough  
x 3 weeks c/o nausea x 2 days. Pt had sinus congestion  
x 3 weeks c/o s/s improving until 2 days ago when  
congestion i.e. sinuses became worse & she developed a  
productive cough c/o clear sputum. She also states she has  
had mild episodes of ~~nausea~~ Nausea & vomiting that has  
resolved today. Fever 2 days ago of 100.7°F. @ 5p5 s/s  
in past 24 hrs.

O: General: W/D W/N 15y/o WF in NAD

HEENT: TM clear bi non-injected, Nasal mucosa red erythematous  
& boggy c/o clear nasal drainage.

Posterior pharynx c/o mild injection c/o c/o cobblestoning.

c/o Cervical lymphadenopathy.

Heart: RRR @ R/6/m

Lungs: CTA bi c/o W/R/R

Abdomen: Soft NT c/o BS x4

Rapid Influenza A-B ⊖

A: 1) URZ viral vs bacterial

P: 1) Keralog 80mg IM

2) Azithromycin 500mg  $\dot{\bar{\imath}}$  po q day x 5 days

3) OTC Suffered as directed

4) Tessalon Poughs 100mg  $\dot{\bar{\imath}}$  po qid prn cough

5) IF s/s persist or get worse RTC

6) Discussed Pt c/o Dr. Williams

*Tracy G. Gals/PAC*  
27 Aug 2012

## PATIENT CONSENT FORM

Urgent Care of Historic Savannah

### Patient Consent for Use and Disclosure of Protected Health Information

I hereby give my consent for **Urgent Care of Historic Savannah** to use and disclose protected health information (PHI) about me to carry out treatment, payment and health care operations (TPO).

The Notice of Privacy Practices provided by **Urgent Care of Historic Savannah** describes such uses and disclosures more completely.

I have the right to review the Notice of Privacy Practices prior to signing this consent. **Urgent care of Historic Savannah** reserves the right to revise its Notice of Privacy Practices at any time. A revised Notice of Privacy Practices may be obtained by forwarding a written request to Jerry Williams, MD 144 Lincoln Street Savannah, Georgia 31401.

With this consent, **Urgent Care of Historic Savannah** may call my home or other alternative location and leave a message on voice mail or in person in references to any items that assist the practice in carrying out TPO, such as appointment reminders, insurance items and any calls pertaining to my clinical care, including laboratory test results, among others.

With this consent, **Urgent Care of Historic Savannah** may mail to my home or other alternative location any items that assist the practice in carrying out TPO, such as appointment reminder cards and patient statements as long as they are marked "Personal and Confidential."

With this consent, **Urgent Care of Historic Savannah** may e-mail to my home or other alternative location any items that assist the practice in carrying out TPO, such as appointment reminder cards and patient statements. I have the right to request that **Urgent Care of Historic Savannah** restrict how it uses or discloses my PHI to carry out TPO. The practice is not required to agree to my requested restrictions, but if it does, it is bound by this agreement.

The signature below serves as consent for services/treatment/referrals by **Urgent Care of Historic Savannah** for the below names patient. This also authorizes the practice to release or receive protected health information for the purpose of treatment, payment, or health care operations necessary for such services.

I understand and agree that I will be financially responsible for any and all charges for medical services. This includes any medical service or visit, preventative exam, physical, lab testing and other screening service or diagnostic testing ordered by the physician or the physician's staff.

*Jessie Donaldson*

Signature of Patient or Legal Guardian

Jessie Donaldson

Print Patient's Name

8/27/12

Date

Print Name of Patient or Legal Guardian, if applicable

## Notice of Privacy Practices

This notice describes how Medical Protected Health Information about you may be used and disclosed and how you can get access to this information. Please review it carefully.

### Summary

By law, we are required to provide you with our **Notice of Privacy (NPP)**. This notice describes how your medical information may be used and disclosed by us. It also tells you how you can obtain access to this information.

As a patient, you have the following rights:

1. The right to inspect and copy your information;
2. The right to request corrections to your information;
3. The right to request that your information be restricted;
4. The right to request confidential communications;
5. The right to a report of disclosures of your information; and
6. The right to a paper copy of this notice.

We want to assure you that your medical/protected health information is secure with us. This Notice contains information about how we will insure that your information remains private. If you have any questions about this Notice, the name and phone number of our contact person is listed on this page.

Effective Date of this Notice	March 4, 2011
Contact Person	Larry Ward (Practice Manager)
Phone NUMBER	912-786-8389

### ACKNOWLEDGEMENT OF NOTICE OF PRIVACY PRACTICES

I hereby acknowledge that I receive a copy of this practice's Notice of Privacy Practices. I understand that if I have questions or complaints regarding my privacy rights that I may contact the person listed above. I further understand that the practice will offer me updates to this Notice of Privacy Practices should it be amended, modified, or changed in any way.

TRACY D. DONALDSON  
Patient or Representative Name (Please Print)

Tracy Donaldson  
Patient or Representative Signature

8/27/12  
Date

**Urgent Care of  
Historic Savannah**

Jerry K. Williams, Jr., M.D.  
144 Lincoln Street • Savannah, Georgia 31401  
Office: 912.234.3714 • Fax 912.234.3771

PATIENT'S NAME Michelle Tebolet DOB 3-28-97

ADDRESS: \_\_\_\_\_ DATE: 8-27-12

**R**

Azithromycin 500mg #.05

sig: T po q day

This prescription is authorized by  
Jerry Williams MD by Mike Grebowski, Pharm

REFILL None 1 2 3 4 5

Generic Substitution Permitted None M.D.

M.D. Dispense as Written



Nº 001295

Lot No. 326699

NEW YORK STATE

*Stephen P. Kim*  
Commissioner of Motor Vehicles



*Tracey L. Donaldson*

DRIVER LICENSE

ID: 107 966 977 CLASS: D

DONALDSON

TRACEY L

24 BIRCH DR

PLEASANT VAL NY 12569

DOB: 07-10-61

SEX: F EYES: BL HT: 5-08

HAIR: NONE

ISSUED: 06-23-11



NYMV/CLETS





# PLAINTIFF'S EXHIBIT "C"

Civil Action No.: 4:13-CV-00184 - April 2, 2014

STATE OF NEW YORK  
COUNTY OF DUTCHESS

)  
)  
)

**AFFIDAVIT OF VINCENT P. BELTRANI, M.D.**

Before the undersigned officer duly authorized to administer oaths in and for the county aforesaid, came this date Vincent P. Beltrani, M.D., who after being duly sworn, deposes and states as follows:

1. I am over the age of eighteen years, and laboring under no mental or physical incapacities, and I am competent in all respects to make this affidavit. I make this affidavit based upon my medical knowledge and experience, and my review of certain medical records pertaining to Plaintiff Michelle Tebolt, as described herein.
2. I am a physician duly licensed to practice medicine in the State of New York.
3. I have practiced medicine since 1990.
4. I am familiar with the standard of care owed by physicians who perform or supervise the diagnosis and treatment of patients via intramuscular injection of the drug Kenalog®. I have performed or supervised the diagnosis and treatment of patients throughout the course of my medical career on a regular and routine basis, including the five years preceding Plaintiff Michelle Tebolt's treatment in August, 2012.
5. The opinions stated herein are to a reasonable degree of medical certainty.
6. I have reviewed the medical records of Plaintiff Michelle Tebolt, which include the records from Defendant Urgent Care 24/7, LLC concerning Plaintiff's treatment.

7. The medical records which I have reviewed document that Plaintiff Michelle Tebolt presented at Defendant Urgent Care 24/7, LLC's office in downtown Savannah, Georgia on August 27, 2012, with a cough, sinus congestion, fever, nausea and recent vomiting.

8. Plaintiff Michelle Tebolt was diagnosed with an upper respiratory infection by a Physician Assistant acting as an agent and / or employee of Defendant Urgent Care 24/7, LLC, after consultation with Defendant Jerry K. Williams, M.D.

9. As noted in the Physician Assistant's notes, he proceeded to treat Plaintiff Michelle Tebolt with an injection of 80 milligrams of the drug Kenalog® into Plaintiff Michelle Tebolt's upper left arm.

10. Subsequently, Plaintiff Michelle Tebolt suffered from atrophy of the tissue immediately surrounding the injection site, resulting in a permanent, visibly red and disfiguring scar and indentation measuring approximately five inches in length and one and one quarter inch in width.

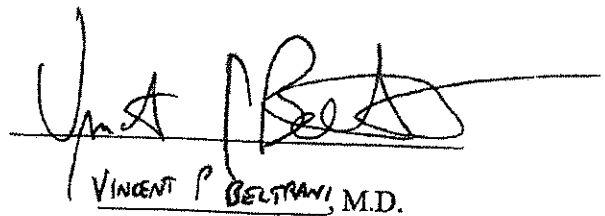
11. It is my opinion that Defendant Jerry K. Williams, M.D., and the certified physician assistant acting under his supervision, violated the acceptable standard of care in the diagnosis and treatment of Plaintiff Michelle Tebolt. Specifically, Defendant Jerry K. Williams, M.D. failed to ensure that the drug Kenalog® was properly and exclusively injected into the gluteal muscles of Michelle Tebolt, in a proper dosage, and that the physician assistant used a needle of proper length, resulting in her injuries.

12. My opinions are based on the review of the medical records referenced herein. I may have additional opinions upon consideration of additional information and evidence concerning Plaintiff Michelle Tebolt's treatment and care.

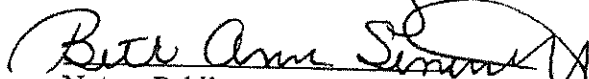
*[Signatures reserved for following page]*

FURTHER AFFIANT SAYETH NOT,

This 28<sup>th</sup> day of May, 2013.

  
VINCENT P. BELTRAMI, M.D.

Sworn and subscribed before me  
this 28<sup>th</sup> day of May, 2013.

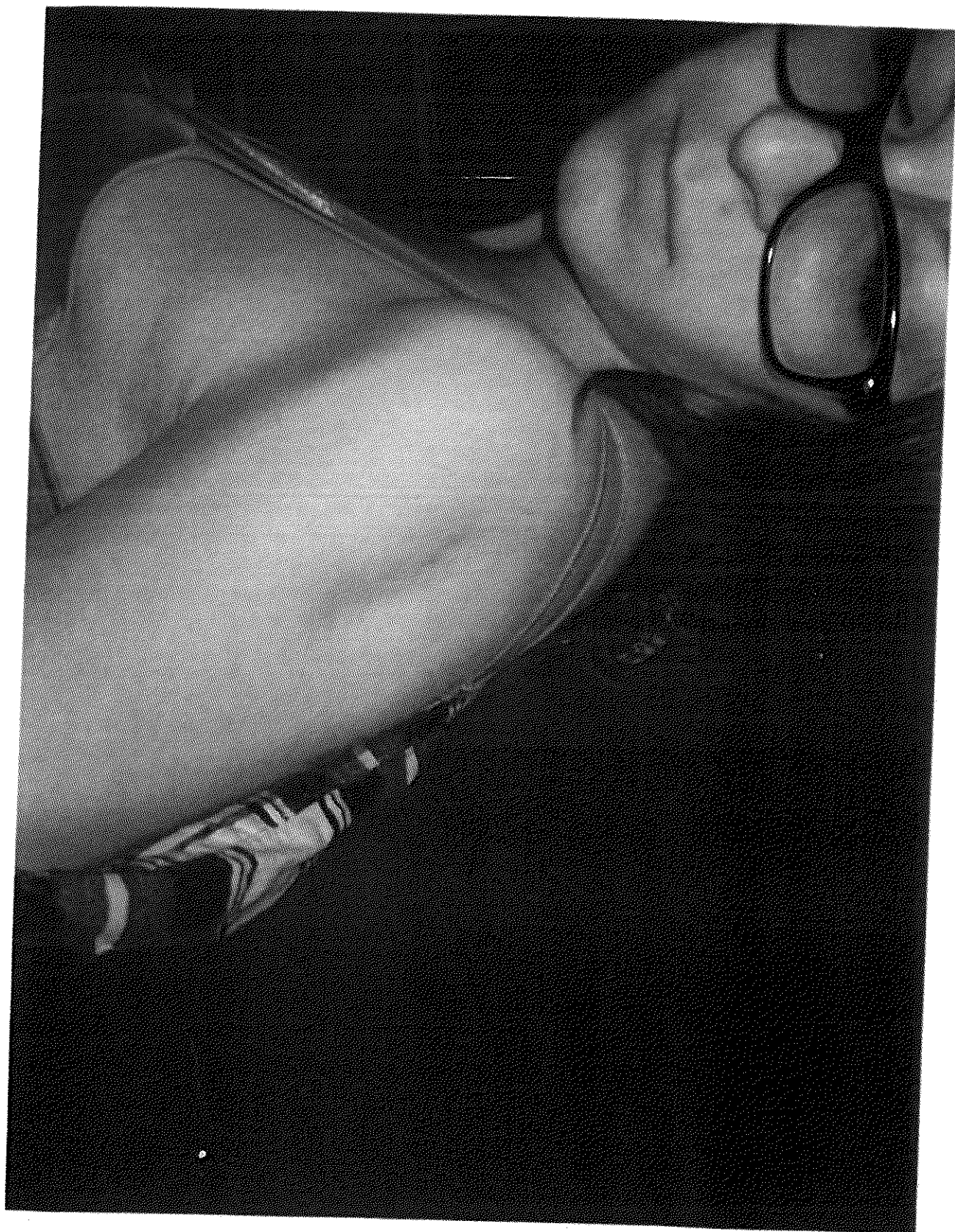
  
Notary Public

My commission expires: 7/19/14

Beth Ann Simonetti  
Notary Public, State of New York  
Lic. No. 01S16225088  
Qualified in Dutchess County  
Commission Expires July 19, 2014

# PLAINTIFF'S EXHIBIT "D"

Civil Action No.: 4:13-CV-00184 - April 2, 2014



# PLAINTIFF'S EXHIBIT "E"

Civil Action No.: 4:13-CV-00184 - April 2, 2014

**Plastic Surgeons of the Hudson Valley**  
207 Washington Street Suite 203, Poughkeepsie, NY 12601  
#845-471-0800

**CONSULTATION DETAILS**

Date: 6/24/13 Email: \_\_\_\_\_

Patient name: Michelle Teboft

Initial to allow follow up by mail \_\_\_\_\_

☐ Dr. Enisman

☒ Dr. Sepulveda

Procedure: Scar revision with complex closure left arm  
(Cpt code 13121)

Time Needed: 1hr \*Cosmetic Add-on Rates \_\_\_\_\_

Anesthesia Type: ☐ none ☒ general or ☒ MAC ☐ local

☒ Same day ☐ Outpatient ☐ Overnight

Vassar/Westage/VASC St. Francis Hospital

Dr. Fee \$ 1500 -

(20% of Dr's fee non-refundable deposit is due at time of scheduling surgery \$ \_\_\_\_\_)

Implant Fee/ \$ \_\_\_\_\_  
Supply Fee \_\_\_\_\_

Hospital Fee \$ 983 -

Overnight: \$ \_\_\_\_\_

NYS +9.65% \$ N/A

Anesthesia: \$ 590 -

TOTAL: \$ 3073 -

- All fees are paid in full 2 weeks prior to surgery with 3 SEPARATE payments for Dr. (plus implants if needed), hospital and anesthesia. This includes any financed portion of the case fee. PLEASE NOTE THAT WE OFFER FINANCING through CARECREDIT for doctor/implants [www.carecredit.com](http://www.carecredit.com).
- We also accept MasterCard, Visa or Discover. Hospitals accept only MasterCard and Visa.
- Fees do not include any pre-surgical testing that may not be provided by the hospital or through your insurance benefits from your primary doctor.
- Please note that imperative information will be discussed with you at your pre-op appointment and we request that alternate care be provided for small children



STATE OF NEW YORK

COUNTY OF \_\_\_\_\_

)  
)  
)

**AFFIDAVIT OF CELESTINO SEPULVEDA, M.D.**

Before the undersigned officer duly authorized to administer oaths in and for the county aforesaid, came this date Celestino Sepulveda, M.D., who after being duly sworn, deposes and states as follows:

1. I am over the age of eighteen years, and laboring under no mental or physical incapacities, and I am competent in all respects to make this affidavit. I make this affidavit based upon my medical knowledge and experience, and my personal observation of and consultation with Plaintiff Michelle Tebolt.
2. I am a physician duly licensed to practice medicine in the State of New York.
3. I have practiced medicine since \_\_\_\_\_, and specialize in cosmetic surgery.
4. I am familiar with the standard of care owed by physicians who perform scar revision surgery, including those requiring complex closure. I have performed or supervised the diagnosis and treatment of patients with similar scarring throughout the course of my medical career on a regular and routine basis, including the five years preceding this affidavit.
5. The opinions stated herein are to a reasonable degree of medical certainty.

6. I am a physician practicing at Plastic Surgeons of Hudson Valley, located at 207 Washington Street, Suite 203, Poughkeepsie, New York, 12601.
7. I examined Michelle Tebolt on June 24, 2013, with regard to a scar revision with complex closure on her left arm.
8. I have estimated that the time required to revise Ms. Tebolt's scar would be one hour and necessitate either general anesthesia or monitored anesthesia care (MAC).
9. My fee for performing the procedure would be \$1,500.00. The hospital fee would be \$983.00 and the anesthesia charges would be \$590.00. The total cost of Ms. Tebolt's scar revision would therefore be \$3,073.00.
10. The recovery time for this surgery is approximately three (3) months, during which Ms. Tebolt would require significant restrictions on the use of her left arm.
11. Depending on the recovery and results of the surgery, Ms. Tebolt is likely to have to undergo another, similar surgery to complete the repair of this scar, at an estimated cost of \$\_\_\_\_\_.

FURTHER AFFILIANT SAYETH NOT.

This \_\_\_\_\_ day of \_\_\_\_\_, 20\_\_.

\_\_\_\_\_  
Celestino Sepulveda, M.D.

Sworn to and subscribed before me,  
this \_\_\_\_\_ day of \_\_\_\_\_, 20\_\_.

\_\_\_\_\_  
Notary Public

My Commission Expires: \_\_\_\_\_

# PLAINTIFF'S EXHIBIT "F"

Civil Action No.: 4:13-CV-00184 - April 2, 2014

From:

11/25/2013 13:57

#093 P.001/005

**TATE** LAW  
GROUP, LLC2 East Bryan Street - Suite 600  
Savannah, Georgia 31401Telephone: (912) 234-3030  
Facsimile: (912) 234-6700  
www.tatelawgroup.com**FACSIMILE COVER PAGE**

TO:	Celestino Sepulveda, M.D.	FAX:	845-471-0811
FROM:	Sherrri N. Watts, Esq.	FAX:	(912) 234-9700
DATE:	November 25, 2013	PAGES:	4, including cover
RE:	Tebolt, Michelle		
REMARKS:	<p>ATTN: JESSICA -</p> <p>I spoke with Nanette at your office, who confirmed that we could get Dr. Sepulveda's signature on the enclosed statement for purposes of settling Mrs. Tebolt's case in federal court. If there are any changes that Dr. Sepulveda would like me to make, please rotate them on the return copy. I have attached a document provided by Michelle Tebolt's mother for your reference. Please call me if there are any questions.</p>		

★ Dr. Sepulveda looked over the paperwork & is charging a \$400 fee for a legal opinion. Please call the office to make payed or send a letter stating this will be paid. The documents accompanying this telecopy transmission contain information from the law firm of Tate Law Group, L.L.C., which may be confidential and/or legally privileged and, regardless of the nature of the information thereon, the documents are intended only for the use of the individual or entity to whom the documents are addressed. If you are not the intended recipient, you are hereby notified that any disclosure, copying, distribution or the taking of any action in reliance will be denied.

# PLAINTIFF'S EXHIBIT "G"

Civil Action No.: 4:13-CV-00184 - April 2, 2014

2:15 PM  
12/17/13

**Tate Law Group**  
**Client Expenses Ledger For:**  
**Michele Tebolt**

<u>Date</u>	<u>Memo</u>	<u>Amount</u>
<b>Tebolt, Ms. Michelle</b>		
6/19/2013	Copies	
6/19/2013	Scans	1.50
6/30/2013	Postage & Delivery	1.50
7/30/2013	U. S. District Court, Southern District of Georgia Filing fee	2.30
8/2/2013	Plastic Surgeons of the Hudson Valley	400.00
8/2/2013	Ortiz & Associates	9.12
9/30/2013	Postage & Delivery	90.00
10/9/2013	Urgent Care of Historic Savannah	0.46
10/31/2013	Postage & Delivery	35.64
10/31/2013	Copies	0.46
10/31/2013	Scans	3.25
11/1/2013	William Michael Grabowski/Witness Fee	2.25
11/30/2013	Postage & Delivery	44.40
		1.32
Total Tebolt, Ms. Michelle		592.20
<b>TOTAL</b>		<b>592.20</b>

# PLAINTIFF'S EXHIBIT "H"

Civil Action No.: 4:13-CV-00184 - April 2, 2014



CONTRACT FOR LEGAL REPRESENTATION

(Contingency Fee Agreement)

I, Tracey Donaldson, do hereby employ Tate Law Group, LLC, to represent me with regard to the following matter:

Michelle Tebolt vs. Urgent Care

For and in consideration of the services to be rendered, I agree to pay Tate Law Group, LLC the following contingent fees and expenses:

35% plus cases expenses if settled before trial, 40% if case goes to trial.

- (1) of the highest offer extended during my employ of Tate Law Group, LLC; or
- (2) of the verdict should this case go to trial.

I understand and agree that this contractual relationship with Tate Law Group, LLC to be governed under the laws of the State of Georgia. I understand that I may dismiss my attorneys at any time, for any reason, upon written notice to Tate Law Group, LLC and payment of unpaid expenses and services rendered to the date of receipt of such notice. This payment is to be based upon time devoted to my case at an hourly rate of \$450.00 per hour, or the applicable percentage of fee due the law firm under the terms of this agreement of any offers which have been made by any adversary.

I represent that I have not heretofore engaged or employed any other attorney or law firm to represent me.

I expressly grant to Tate Law Group, LLC a power of attorney to endorse and deposit into the client trust account any drafts or checks received by the law firm and made payable to me in whole or part, and I authorize said law firm to deduct fees, as well as costs and expenses from my share of any such sums recovered. Any unpaid liens or bills for hospitals, doctors, and other medical services shall remain my obligation

WITNESS my hand this the 30<sup>th</sup> day of May, 2013.

Tracey Donaldson  
(Client)

Employment accepted on the basis of the above outlined this \_\_\_ day of \_\_\_, 2013.

Tate Law Group, LLC

By: Shawn M. Watts  
(For the Firm)

# PLAINTIFF'S EXHIBIT "I"

Civil Action No.: 4:13-CV-00184 - April 2, 2014

**IN THE UNITED STATES DISTRICT COURT  
FOR THE SOUTHERN DISTRICT OF GEORGIA  
SAVANNAH DIVISION**

**TRACEY DONALDSON,**  
individually, and on behalf of  
her daughter, **MICHELLE TEBOLT,**  
a minor,

Plaintiff,

v.

**URGENT CARE 24/7, LLC, and  
JERRY K. WILLIAMS, M.D.**

Defendants.

CIVIL ACTION NO. 4:13-CV-00184

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**AFFIDAVIT OF MARK A. TATE, ESQ., COUNSEL FOR PLAINTIFF  
IN SUPPORT OF PETITION FOR SETTLEMENT**

1.

Before the undersigned officer duly authorized to administer oaths in and for the county aforesaid, came this date, Mark A. Tate, Esq., who after being duly sworn, deposes and states as follows:

2.

I am eighteen years of age or older, and laboring under no mental or physical incapacities, and I am competent in all respects to make this affidavit. I am duly licensed to practice law in the State of Georgia, and have been admitted to practice in this Court since 1992. I represent the Plaintiff, Tracey Donaldson, individually and on behalf of her daughter, Michelle Tebolt, a minor. I make this affidavit based upon my personal knowledge of the facts described herein;

3.

On July 30, 2013, the present suit was filed alleging that Defendants' conduct fell below the standard of care in the following manner:

- (a) Defendants failed to observe the contraindication for the injection of Kenalog® into muscles other than the gluteal muscle;
- (b) The Defendants failed to observe the proper dosage for Kenalog®; and
- (c) On information and belief, the Defendants failed to ensure that the proper needle length of 1.5 inches was utilized.

4.

The affidavit of Dr. Vincent P. Beltrani, Ms. Tebolt's family care physician, is attached to Plaintiff's Petition for Settlement as Exhibit B, in support of the above-referenced allegations.

5.

As a result of Defendants' alleged negligence, Ms. Tebolt will have to undergo cosmetic surgery to repair the scar tissue in her upper left arm. A true and correct copy of a picture of Ms. Tebolt's arm as of May, 2013, is attached to Plaintiff's Petition for Settlement as Exhibit C.

6.

A statement regarding the costs of this surgery, and prognosis, prepared for Dr. Celestino Sepulveda's signature, is attached hereto as Exhibit D. However, Dr. Sepulveda has asked for \$400.00 before he will sign any statement. See facsimile attached as Exhibit E. In order to obtain the highest possible recovery for our client, we have foregone this expense pending an Order to obtain a notarized signature from Dr. Sepulveda.

7.

After reviewing the above-referenced evidence, and conferring with Defendants' counsel, the parties have reached an agreement to settle all claims for \$ 35,000.00.

8.

A true and correct copy of the expenses incurred to date by undersigned counsel is attached to Plaintiff's Petition for Settlement as Exhibit F.

9.

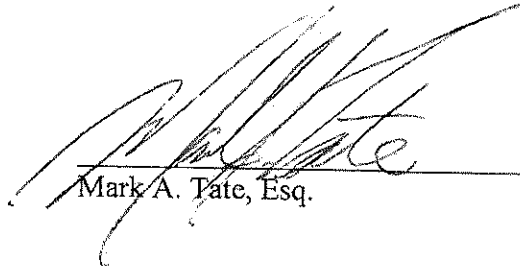
A true and correct copy of the existing fee contract with undersigned counsel, is attached to Plaintiff's Petition for Settlement as Exhibit G.

10.

In my estimation, this settlement is in the best interests of my client and her minor child.

FURTHER AFFIANT SAYETH NOT.

This 13<sup>th</sup> day of March, 2014.

  
Mark A. Tate, Esq.

Sworn to and subscribed before me,  
this 13<sup>th</sup> day of March, 2014  
Katie M. Kindred  
Notary Public  
My Commission Expires: 3/25/17

